

Internal Revenue Service

Number: **201017029**
Release Date: 4/30/2010
Index Number: 6041.00-00

Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:

Telephone Number:

Refer Reply To:
CC:PA:01
PLR-143055-09

Date:
December 10, 2009

Legend

County =
Program =
State =

Dear :

This letter responds to your ruling request dated September 8, 2009, submitted on behalf of the County. Your request relates to whether the County is required to file information returns with respect to Program payments of rent made directly to landlords on behalf of Program recipients.

Background

The County operates a welfare Program in compliance with State law, the County Charter, and the County Program Ordinance. Although governed by the State, the County issues and implements rules and procedures for the administration of this program. The County assists needy persons residing within its political boundaries through the Program by providing grants to eligible individuals to help them obtain food, shelter, and basic needs. An individual welfare recipient's total monthly grant may be paid directly to the individual, or, the County may pay a portion of the grant to the recipient and another portion directly to the recipient's landlord. It is these direct payments to landlords for which a ruling is requested.

Law and Analysis

Section 6041 of the Internal Revenue Code (hereinafter the “Code”) (and section 1.6041-1(a)(1) of the Regulations) require all persons engaged in a trade or business and making payment in the course of such trade or business to another person, of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income of \$600 or more in any taxable year, to file an information return with the Internal Revenue Service (hereinafter the “Service”) and to furnish an information statement to the payee.

Under section 6041 of the Code, only fixed or determinable (i.e., taxable) income must be reported. The payments of compensation (and other amounts) required to be reported are those includible in gross income under section 61 of the Code. Section 61(a)(5) of the Code clearly includes rents, therefore payments to the landlords under the Program are gross income.

Section 1.6041-1(b) of the regulations defines the term ‘all persons engaged in a trade or business’ as used in section 6041(a) of the Code to include not only those so engaged for gain or profit, but also organizations the activities of which are not for the purpose of gain or profit, for example, the organizations referred to in paragraph (i) of section 1.6041-1.

Section 1.6041-1(i) of the regulations requires that information returns on Forms 1099 of payments made by the United States or a state, or political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, shall be made by the officer or employee of the United States, or of such state, or political subdivision, or of the District of Columbia, or of such agency or instrumentality, as the case may be, having control of such payments or by the officer or employee appropriately designated to make such returns.

The County is a political subdivision of the State and is therefore an organization engaged in a trade or business as described above. Payments made by the County as a function of the Program, a government welfare system implemented under State law, are considered to be made in the course of the County’s trade or business.

Section 1.6041-1(e) of the regulations provides that generally a person making payments in the course of its trade or business on behalf of another person must file an information return if such payments are described in section 1.6041-1(a), and that person performs managerial or oversight functions with respect to the payment, or the person has a significant economic interest in the payment. Performance of managerial or oversight functions would exclude a person who performs mere administrative or ministerial functions such as writing checks at another’s direction. Treas. Reg. § 1.6041-1(e)(1)(i).

Under the facts provided, it appears that the County exercises management or oversight functions with respect to payments made to landlords on behalf of the

Program recipients. Under the County Program, the County requires submission of certain forms and information related to the recipient, the landlord, and the housing arrangement in order to determine if all eligibility criteria, such as residency requirements and reasonableness of rental amount, are met. Further evincing the exercise of management or oversight, under the Program regulations, the County may refuse to make payments to the landlord if the information provided does not comply with certain policies and guidelines of the Program. See Treas. Reg. § 1.6041-1(e)(5).

Accordingly, if the County makes a direct payment to a landlord pursuant to the Program, the County is required to file an information return with the Service and to furnish an information statement to the landlord.

Conclusion

For these reasons, we conclude that payments under the Program will represent gross income to the landlords, that the County makes the payments to the landlords in the course of a trade or business, that the County performs management or oversight functions in connection with payments to landlords, and that the County is subject to the resulting information reporting requirements of section 6041 for payments aggregating more than \$600 in a year.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Sincerely,

Charles A. Hall
Senior Technician Reviewer
(Procedure & Administration)